

(2009) 02 PAT CK 0109

Patna High Court

Case No: None

Raghwendra Singh

APPELLANT

Vs

The State of Bihar and
Others

RESPONDENT

Date of Decision: Feb. 11, 2009

Citation: (2009) 4 PLJR 801

Hon'ble Judges: Ramesh Kumar Datta, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Ramesh Kumar Datta, J.

Heard learned Counsel for the petitioner and learned Counsel for the State.

2. The petitioner seeks quashing of the order contained in memo No. 2547 dated 9.12.2005 (Annexure-6) passed by the Director, Primary Education, by which he has rejected the claim of the petitioner for appointment on compassionate ground since the petitioner does not possess the training qualification.

3. The petitioner's father, late Yogendra Singh was working as Assistant Teacher in Government Aided Middle School, Hariharpur Khurd and while in service, he died on 29.12.1998. The petitioner applied for appointment on compassionate ground. The case of the petitioner was recommended by the District Superintendent of Education in the year 1999, but no decision having been taken by the superior authorities, the petitioner approached this Court by filing C.W.J.C. No. 11377 of 2003, which was disposed of by order dated 19.3.2004 with a direction that the case of the petitioner should be disposed of by the Special Director within a period of four months, and with a reasoned order in case of its rejection. Pursuant to the same, by the impugned order dated 9.12.2005, the Director, Primary Education, Govt. of Bihar has rejected the case of the petitioner. In the said order, it is stated that as per the departmental letter No. 709 dated 4.3.1993 for the appointment to the posts of

teachers in Government Aided Schools only trained candidates can be permitted to apply and since the petitioner was not a trained candidate, hence, he does not fulfil the criteria for appointment and thus he is not entitled to appointment on compassionate ground.

4. This Court in a recent decision dated 27.1.2009 in C.W.J.C. No. 1205 of 2006: *Shakila Khatoon v. The State of Bihar and others* has held as follows:

On a consideration of the rival submissions this Court is unable to accept the submissions of learned Counsel for the petitioner. It is evident from the decision of this Court in *Santosh Lall's case* (supra) that it was only held therein that the aided minority institutions will also have to apply the policy of compassionate appointment in the matter of dependents of their deceased employees who died in harness, but it is nowhere stated in the said decision nor it can be held that any relaxation with respect to any matter which is applied by the State Government with respect to dependents of its deceased employees will automatically apply in the case of aided minority institutions. With respect to such institutions separate circulars have been issued by the State Government from time to time, including the one dated 20.8.1982 which is Annexure-D to the counter affidavit, and in the said circular clear provision has been made that training is a pre-requisite for appointment in such institutions. Learned Counsel for the petitioner was unable to show that the said requirement has been relaxed in the case of any appointment or in the case of appointment on compassionate ground in aided minority schools. In the said circumstances, it is not open to him to rely upon a general circular of the Government with respect to deceased Government employees as it cannot be said that service in Government schools and in a government aided minority school stand precisely on the same footing.

It is evident from the impugned order dated 9.12.2005 that the same has been passed for reasons which have been upheld by this Court in the aforesaid order dated 27.1.2009 while dismissing a similar writ petition of similarly situated person.

5. Thus, there is no merit in the writ application and it is, accordingly, dismissed.